IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 20-06-2007

CORAM

THE HONOURABLE MR.JUSTICE S.PALANIVELU

C.M.A.No.252 OF 2002

1.K.Nanjundan

2.The National Insurance Company Ltd.,
305, Bangalore Road,
Krishnagiri,
rep.by its Manager. ... Appellants/ Respondents

-vs-

Minor C.Murugammal,
rep.by her father and
natural guardian
Chinnasamy ... Respondent/ Petitioner

Appeal against the award and decree, dated 13.08.2001, made in MCOP No.204 of 2000, on the file of Motor Accident Claims Tribunal (II Additional District Court), Krishnagiri.

For appellants : Mr.Mrs.Kala Ramesh
For Respondent : Mr.D.Shivakumar

J U D G M E N T

Owner and the Insurance Company have filed this appeal, aggrieved over the award, dated 13.08.2001, made in MCOP No.204 of 2000, on the file of Motor Accident Claims Tribunal (II Additional District Court), Krishnagiri, awarding a compensation of Rs.2,50,000/- as against the claim of Rs.7,00,000/-.

2. There is no dispute about the manner of accident and the liability fixed on the rider of the bike, for causing the accident.

3. On 26.04.1999, at about 09.00 a.m., while the minor Murugammal was standing in Sundapatti Bus Stop, a TVS Suzuki Motorcycle, belonging to first respondent and insured with second respondent, driven by its rider in a rash and negligent manner, dashed against her, causing serious injuries. Murugammal was admitted to Government Hospital, Krishnagiri. Thereafter, she received treatment at Bangalore and Salem.

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4. P.W.2 is the doctor, who examined the injured and deposed that the injured was not conscious; she could not speak coherently; her right hand and right leg were paralysed; on examination of CT scan, it was found that there was a block in the blood vessel in the left side brain; she was suffering from headache; she lost her memory and that she suffered permanent disability at 40%.

5. The doctor's evidence in this case is very vital. Considering the above said disabilities and perusing the medical documents and the pathetic plight of the injured aged seven years, the tribunal awarded a sum of Rs.2,50,000/- as total compensation, without itemizing it under various heads. Such an attitude of the Presiding Officer of the tribunal is very much spoken to before this Court by the learned counsel for the appellants. The learned counsel also garnered support from a Full Bench decision of this Court in Cholan Roadways Corporation Ltd. v. Ahmed Thambi, 2006 (4) M.L.J. 362, wherein guidelines have been framed for the tribunals and the uniformity of procedure to be adopted by them, while assessing compensation. The operative portion of the said decision reads thus :

> "19. In order to avoid any future confusion and to bring more clarity and transparency in the award of damages, it is necessary that the Tribunal, while awarding damages, should itemise the award under each of the head, namely, pecuniary losses and non-pecuniary losses. In the non-pecuniary losses, the Tribunal shall consider a) pain and suffering, b) loss of amenity, c) loss of expectation of life, hardship, mental stress etc., d) loss of prospect of marriage and under the head pecuniary losses, the Tribunal shall consider loss of earning capacity and loss of future earnings as one component apart from medical and other expenses and loss of earning capacity (sic), if any from the date of accident till the date of trial. When loss of earning capacity is compensated as also the non-pecuniary losses under (a) to (d), permanent disability need not be separately itemised...."

6. Following the guidelines contained in the above said Full Bench decision of this Court, the compensation awardable to the claimant under various heads has to be itemised. The claimant, who is the natural guardian, namely, father has not preferred any

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appeal against the award of the tribunal. Hence, the said award has become final. The only course left is, itemization of compensation under various heads.

7. Considering the oral evidence of doctor available on record with regard to the disabilities being suffered by the claimant, I feel it very pathetic and, when it is visualised, one will, definitely, have sympathy on the injured child. Even in tender years, the female child, aged seven, is suffering from disabilities, which are described to be permanent. Hence, under the caption 'non-pecuniary loss', the following figures, under various heads, may be arrived at :

(i) Pain and suffering : Rs.40,000/-
(ii) Loss of amenities and enjoyment of life : Rs.30,000/-
(iii) Loss of expectation of life :Rs.30,000/-
(iv) Loss of prospects of marriage : Rs.50,000/-

Under the caption 'pecuniary loss', towards 'loss of earning capacity', and 'loss of future income', a sum of Rs.1,00,000/-, put together, may be considered. Hence, in all, the claimant is entitled for a sum of Rs.2,50,000/-, as itemisied above.

8. In view of my aforesaid observations, this appeal suffers dismissal and, therefore, it is dismissed. No costs.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1. The Motor Accident Claims Tribunal
(II Additional District Court),
Krishnagiri.

2. The Record Keeper,
VR Section, High Court, Madras.

1 cc to Mr.P. Sukumar, Advocate, SR. 36304

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